

REMARKS

The present application includes pending claims 1-38, all of which have been rejected. Claims 1, 5, 10, 21 and 29 have been amended, as set forth above

Claims 1-4, 9-12, 14-17, 21-26, 28-32, 37 and 38 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 6,601,237 ("Ten Kate"). Claims 5, 6, 13, 27, 33 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ten Kate in view of U.S. 2002/0166127 ("Hamano"). Claims 7, 8, 18-20, 35 and 36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ten Kate in view of U.S. 2004/0261096 ("Matz"). The Applicants respectfully traverse these rejections for at least the reasons previously discussed during prosecution and the following.

As amended, claim 1 recites, in part, "storage at the first location for storing all idle state media and all user scheduled media; a user interface for identifying particular media as one of the idle state media or the user scheduled media; set top box circuitry at the first location communicatively coupled to the storage at the first location to support consumption of the idle state media and the user scheduled media by the television display; and the set top box circuitry at the first location causing the displaying, from the storage at the first location, of idle state media when no user scheduled media is available on the television display at the first location and the at least one display device at the second location." Thus, the claim is clear that all of the media, whether idle state or user scheduled, that is displayed on the television display is stored on the storage at the first location.

Ten Kate discloses a "virtual channel means for creating a user selectable virtual channel for reproducing selected programs from various genuine channels." *See* Ten Kate at Abstract. The virtual channel is "created by merely manipulating the information tables describing the

digital broadcast stream.” *See id.* at column 2, lines 2-5. Thus, Ten Kate discloses a system in which a user produces a virtual channel that essentially switches among various broadcast channels depending on the time particular programs are broadcast on the “genuine” channels. *See id.* at column 5, lines 8-10 (“FIG. 2 schematizes the way SDT and EIT are adapted to created two virtual channels and schedule programs from genuine channels for the new virtual channels.”). For example, if a user decided to create a virtual channel that shows Program A from Channel 5 at 7 PM and Program B from Channel 7 at 8 PM, the virtual channel shows the Program A on Channel 5 at 7 PM and then switches to Channel 7 at 8 PM for Program B.

Ten Kate discloses conflict rules when two programs from different broadcast channels chosen for the virtual channel are broadcasted simultaneously.

When programs are collected from multiple genuine channels, it may occur that some of the programs are broadcast simultaneously, hence cannot be viewed at the same time. An embodiment is characterized in that the apparatus further comprises scheduling means for assigning priority ratings to the programs of the virtual channel, for selecting a first program in favor of a second program when they are broadcast simultaneously and the first program has a higher priority rating than the second program.

Id. at column 2, lines 21-30. Thus, in Ten Kate, if a virtual channel selects two programs from genuine channels that are broadcasted simultaneously, the virtual channel selects the higher priority program, as the two programs from two separate genuine channels cannot be simultaneously broadcasted on the virtual channel as they are being broadcasted on their respective genuine channels.

However, Ten Kate does disclose that the lower priority program, but not the higher priority program, may be recorded and rescheduled for viewing.

An alternative embodiment is characterized in that the scheduling means are further adapted to record the second program, and

reschedule it for the virtual channel to fill a gap before or after the programs scheduled in the virtual channel.

Id. at column 2, lines 36-41. Thus, in this embodiment of Ten Kate, the first program is not recorded. Instead, the virtual channel essentially switches to the genuine channel to show the first program as it is broadcast. The second program is recorded to later fill a gap.

Ten Kate also discloses the “virtual channel means are further adapted to store an identification of a default channel and control the tuner to tune to said default channel when there is no program scheduled for the virtual channel.” *See id.* at column 2, lines 53-57. The default channel itself is not stored. Only its identification is stored. Ten Kate merely switches to the default channel broadcast when the scheduled lineup for the virtual channel is finished. Ten Kate also discloses that “recorded programs having a length which is substantially equal to the length of the gap” may be used to fill in schedule gaps. *See id.* at column 6, lines 23-32.

As explained above, Ten Kate discloses a system and method in which a virtual channel switches among “genuine” channels based on a particular schedule. While a conflicted program may be recorded, Ten Kate does not describe, teach or suggest that everything shown on the virtual channel is stored. Ten Kate does not describe, teach or suggest, however, “storage at the first location **for storing all idle state media and all user scheduled media**,” as recited in claim 1. Claim 10 recites, in part, “storing all of the idle state media and the user scheduled media at the first location.” Claim 21 recites, in part, “storing all of the media at the first location; identifying the media stored at the first location as idle state media or user scheduled media based upon input from a user.” Claim 29 recites, in part, “wherein all of the idle state media and the user scheduled media is stored in the storage at the first location.” Thus, for at least these reasons, Ten Kate does not anticipate claims 1-4, 9-12, 14-17, 21-26, 28-32, 37 and 38.

The Applicants also respectfully submit that Ten Kate does not describe, teach or suggest “the set top box circuitry at the first location causing the displaying, from the storage at the first location, of idle state media when no user scheduled media is available on the television display at the first location **and the at least one display device at the second location,**” as recited in claim 1. Thus, for at least this additional reason, Ten Kate does not anticipate claims 1-4 and 9.

As noted above, claims 5, 6, 13, 27, 33 and 34 stand rejected under as being unpatentable over Ten Kate in view of Hamano. Claims 7, 8, 18-20, 35 and 36 stand rejected as being unpatentable over Ten Kate in view of Matz. The Applicants respectfully request reconsideration of these rejections for at least the reasons set forth above.

In general, the Office Action makes various statements regarding claims 1-38 and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request that the outstanding rejections be reconsidered and withdrawn. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

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